BARODA SUPPLEMENT TO

REGISTERED No. 134. 1875.

The Bombay Gazette.

BARODA :—SUNDAY, MARCH 14, 1875.

COMMISSION OF INQUIRY INTO CHARGES LAID AGAINST H. H. MULHARRAO, GAEKWAR OF BARODA.

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SIXTEENTH DAY, SATURDAY, MARCH 13.

PRESENT.

SIR RICHARD COUCH (President); H. H. Maharaja of Gwalior, H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission — John Jardine, Esquire, Bombay Civil Service.

Interpreters—Mr. Nowrozjee Furdoonjee and Khan Bahadoor Cursetjee Rastomjee Thanawalla.

H. H. the Maharajah Gaekwar occupied a seat on the left of the Commission.

Sir Lewis Pelly, K.C.S.I., occupied a seat on the right of the Commission.

The inquiry was opened at 11 o'clock.

On the Commission taking their seats, Serjeant Ballantine said that he wanted his Lordship's permission to ask Mr. Souter one other question.

Mr. Souter re-called.

Examined by Mr. Serjeant Ballantine—Mr. Souter, I was just referring to the finding of arsenic in the belt of Rowjee. I understand that you were aware of his going to fetch the belt?—Rowjee did not go to fetch the belt.

But you know it was fetched?—Yes.

But you were aware of its being sent for?

Mr. Souter—Rowjee mentioned that the belt was then in the possession of a person called Bhoodhar. A person was sent to bring the man, and he came himself with the belt.

Serjeant Ballantine—Was there anything to prevent your remaining and examining the belt yourself?—No, there was not.

The President—What is that?

Serjeant Ballantine—There was nothing to prevent his remaining and examining the belt himself.

My Lord, His Highness the Gaekwar is desirous that a statement of his should be read to the Commission. I am desired by him to lay it before you. I think that their Highnesses upon the bench understand this language perfectly—the Marathi. If so, I propose that the Interpreter should read oit in Marathi.

Sir Richard Meade mentioned that the Maharaja of Jeypoor did not understand Marathi.

The President—The Maharaja of Jeypore says that the English copy will be sufficient for him, so that it will not be necessary to read it in Hindoostanee at present.

Mr. Branson—With your Lordship's permission I will read the statement. It is as follows:—

My Honoured and Valued Friend,—His Excellency the Viceroy, having declared his intention of giving me an opportunity of clearing myself from the grave suspicion which he was induced to consider attached to me in consequence of the alleged attempt to poison Colonel Phayre, the Resident at my court, I now, out of respect for His Excellency the Viceroy, and from a desire to clear myself before him and before the world at large of those suspicions, make the following statement:—

I never had, nor have I now, any personal enmity towards Colonel Phayre. It is true that I and my ministers were convinced that owing to the position taken up by Colonel Phayre during his residency it would be impossible satisfactorily to carry out the reforms I had instituted and was endeavouring to complete in deference to the authoritative advice conveyed to me in the khureeta of the 25th July 1874, consequent upon the report of the Commission of 1873. Acting on this conviction, and after a long and anxious deliberation with my ministers, Messrs. Dadabhoy Nowrojee, Bala Mungesh Wagle, Hormusjee Ardasir Wadia, Kazi Shahabudeen, and others, I caused the khureeta of the 2nd November 1874 to be despatched to His Excellency the Governor-General through Colonel Phayre, and, notwithstanding his remonstrances, feeling assured that when the true state of affairs was placed before His Excellency the Viceroy, my appeal would be successful. This conviction was shared by all my ministers and was strengthened by our knowledge of the severe censure which had been passed on Colonel Phayre by the Bombay Government. The removal of Colonel Phayre on the 25th November 1874 shows that our judgment was not erroneous. These or any personal nor political motives existed to brought me to attempt the crime with which I am charged, and I solemnly declare that I never personally, or through any agent, procured or asked the procurement of any poison whatsoever for the purpose of attempting the life of Colonel Phayre; that I never personally or through any agent directed any such attempt to be made; and I declare that the whole of the evidence of the ayah Ameena, of Rowjee, Nursoo and Damodur Trimbuck on this point is absolutely untrue. I declare that I never personally directed any of the Residency servants to act as spies on the Resident, or report to me what was going on at the Residency, nor did I ever offer or cause to be paid any money to them for such purposes. I say nothing as to the presents that may perhaps have been made to servants of the Residency on festive occasions such as marriage and the like. Information on trifling matters going on both at the Residency or at my own Palace may have been mutually communicated, but I did not personally hold any intercourse with those servants for this purpose; nor am I personally cognizant of any payments for the same having been made; nor did I authorise any measures by which secrets of the Residency should be conveyed to me. I present myself before this Commission fearlessly. I put implicit faith in the justice of those appointed by my honoured and valued friend the Viceroy. I am willing to answer any questions they may deem it right to put to me, and again solemnly deny the foul charge my enemies have instigated against me.

Serjeant Ballantine then rose to address the Commission. He said—May it please your Lordship, your Highnesses, and the other members of this Commission—After what I believe—and I think I shall demonstrate—to have been a most cruel and groundless persecution, His Highness the Gaekwar of Baroda has now the opportunity of coming before a Court constituted as this is, and to ask at your hands that justice which has been hitherto denied him. It is now known upon what grounds these accusations have rested. It is now known upon what slight foundation his liberty has been taken away. He has been humiliated in the sight of his subjects, has suffered the misery of what amounts in reality, upon a man constituted as he is, to a severe incarceration. It is now further known upon what evidence these charges are founded and in what way that evidence has been procured. It is known that those who have conducted this prosecution conducted it with all the energy that an active, and I am obliged to say utterly unscrupulous, police have brought to bear upon the matter. We know now what is the foundation, what are the facts, and who are the witnesses in confirmation of these facts. And I am not afraid to assert—and I do so fearless of contradiction from any thoughtful and reasoning man—that a mass so incongruous, that statements so contradictory, that matters so improbable—I may say almost impossible—have never been heaped together in any charge that in modern days, at all events, has been brought into a court of justice. I further am entitled to assert—again I may say without fear of contradiction—that the witnesses who are called upon to support these charges are abandoned beyond all ordinary infamy, and that the only endeavour that can be made by myself in appearing for His Highness the Gaekwar is to point out not these matters that I should have to meet as bearing in any way the impress of truth, but probably rather have to comment upon the greater infamy of one witness beyond another, whilst I am unable to rest my mind upon any witness or upon any evidence which is not corrupt upon its face bears the stamp of falsity and almost is corroborated and bearing upon its very features the stamp of falsehood and almost carrying upon its very surface an invitation to those who have but to hear to say that this is a foul and perjured lie which no gentleman or man of honour can receive or believe. I have said, my lord, that the mass of evidence, the character of it, and the nature and character of the witnesses is such as to be almost without a parallel. I remember no case of modern days having the slightest similarity I have not the slightest acquaintance with the proceedings of courts of justice in this country. And for aught that I know, infamy may exist elsewhere and cases of infamy may have been discovered before a tribunal like this. But in my time and in my knowledge of other tribunals with which I am familiar I have known none of the same character, I have known none bearing even a similarity to it, and I confess it with wonder and astonishment that this unfortunate and unhappy prince has had his liberty taken away, and followed by slanders of the foulest kind, has been heaped with infamy of the most extraordinary kind from quarters where he would feel it most. And when I come to look at the evidence, I find nothing but a mass of groundless lies of filthy perjury of abominable invention. My Lord, whilst this case has been proceeding and while I have been reflecting from time to time upon the evidence which has been given from day to day, whilst I was unable to find anything in modern days in any way whatever similar to the story, with all its improbabilities, with all its incongruities, with the absolute carelessness in many instances, of making falsehoods fit in one with another, as if the persons who told the lies thought that they would here find an easy audience who would believe everything that these dirty wretches swore against a man who was under the ban of Government, and this Court knows right well it is not peculiarity of the country of India, how when a man is down, and when he is supposed to be under the ban of power and it is thought he may never rise again how the dirty curs surround him, spring up and yelp and bark, and how their miserable tongues convey all the miserable slander they are able, against a victim whom they suppose is prostrate. My Lord, while reflecting on these things, the story which has been told here brings forcibly to my mind one of the most disgraceful passages in our history; where a weak king and an excited populace, assisted by corrupt judges, listened to stories equally incredible, listened to tales equally absurd, scorned anything like reasoning, applied nothing like judgment, listened to everything that was stated, and apparently believed it, and allowed many an honourable and upright gentleman to be hunted by perjury and fraud to the scaffold. It reminds me of those days when Oates and Dangerfield and the crew of villains who surrounded them invented every lie which came to their mind, and emitted these lies in a court of justice and were listened to because those to whom they told the lies had no independence and were afraid to act against the opinion of the monarch and the feelings of the people. But again I have been thinking, whilst this case has been progressing, that in this country there is a belief amongst certain sects in the doctrine of transmigration of souls, and when I have persons who have been called here—Nursoo and the others—I could not help dreaming to myself that possibly if the idea of these sects have anything of truth in them, at this moment we have the souls of Dangerfield and Oates before us hidden in the bodies of the perjured witnesses who have dared to give evidence before an intellectual and honourable tribunal. My Lord, I hope—indeed I am sure—that you will believe that it is no mock modesty on my part, when I say that I enter upon a discussion of this case with a feeling of such heavy responsibility that it almost destroys my powers of reasoning with the clearness I should have desired to put before this tribunal, constituted as the present is. I cannot divest my mind—it may be a wrong feeling—a feeling not appreciated probably by many—I do not mean upon the bench, but by many of my hearers—but I cannot divest myself of a strong feeling of sympathy for that unhappy prince, and my mind and powers are overladen with the weight that rests upon me, having more or less his fate in my hands, and, possibly—I do not say probably—because I believe without a word of mine, this case will be disposed of as I could desire, and as I believe in the cause of justice and truth. But still it may be upon me that some matters rest which may have a more or less effect, and I do feel the weight of the apprehension of being unable to cast upon me, and the responsibility to perform the duties I have undertaken. I have only to make this observation upon the subject. The matter rests entirely upon my own feelings. From the time I have had the honor of addressing the Court, I have met with nothing but a desire exhibited by the keenest attention to investigate the truth, and I have met with nothing but assistance even where it was possible. I might have trespassed upon their kindness and I feel that upon me and me only rests this matter, and I have had no complaint, to make since the subject has come into this court. I have had every facility afforded me, and with these facilities I propose to address the Court. From this time I will endeavour to do so with calmness, advancing to them solely what I deem to be argument, because I hope to be able to impress my feelings upon the Commission; in my conscience I believe if I can only succeed in placing before this Commission the matter as it has been impressed upon my own mind, there will not I believe be a dissentient opinion, as to the decision which will be arrived at. It is not often, my Lord, that an advocate dares to express such confident opinions, but I am assured the Court will feel that I intend no disrespect to them, and, moreover, if the decision should indeed be adverse, I shall simply feel that my judgment has been wrong, that my thoughts have been erroneous, that my conclusions have been lead away possibly by my feelings—But such, nevertheless, are my feelings, and my only hope and prayer is that I may be enabled to convey that which is upon my own mind in clearness to the minds of those whom I have the honour to address. My Lord, the Proclamation by His Excellency the Viceroy, as has been pointed out, has limited the scope of this enquiry. It is particularly directed that no extraneous matters should be introduced. It is anticipated that the two questions that have been submitted to you, namely, whether or not there has been an illegal tampering with certain servants of the Residency, and whether or not the graver crime imputed to the Gaekwar has been committed—are the two questions which this Commission is called upon to apply their minds to and to express an opinion upon. I refer to this because it is impossible not to feel that the Gaekwar has been surrounded by or enveloped, I should rather say, in a cloud of what, as far as I know, is calumny. I am not here with any power to know of his former transactions, or aught of his former life. I have not sought, and I do not possess information upon the subject. I can well imagine—one's reading at all events gives one an insight into those who are occasionally governing territories of this description. One knows how they are brought up. One knows how little of independence they possess, how their thoughts are more or less controlled by others, and I believe I am right in saying that there were unfortunate circumstances in His Highness's life which made him more than usually dependent on others and gave him less opportunity of acting for himself and governing in those matters in which he had a more immediate concern. It is not uncommon, unless a prince is indeed very acute, and unless he is also very determined—it is not uncommon—I will not say, merely in this country, but in every country in the world—for princes to be surrounded by the vilest of servants—men who are plundering them—men who are deceiving them—men who are tricking them—and yet men in whom they place their confidence. My Lord, I only refer to that for the purpose of founding this observation. Do not let us be too hasty to fasten upon the man's heart, his judgment, or his mind transactions if there be any which have emanated from his servants, and over which he may have had but little control. I make no further observations upon this point. I think it will not be felt by the Commission that it is an improper one to have been made, although it is not with reference to that which is more immediately in issue and although when I come to point out what is the real nature of this case, it will not be, my Lord unimportant to ascertain by whom the Gaekwar was surrounded, and who were the persons influential in his household. But I wish rather to convey—perhaps, addressing this tribunal I ought not to do so—but it is an argument that is addressed to the highest and to the greatest—whoever is mortal is subject to mortal prejudices and feelings, and it will not be considered disrespectful on my part when I earestly implore those members of the Commission who may have known something of former transactions on the part of the Gaekwar, and who may for ought I know have formed certain opinions upon those transactions;—I am sure it will not be felt any disrespect on my part if I implore them earnestly, as a duty to the Gaekwar, as a duty to their country, as a duty to common justice, to dismiss every consideration of that kind from their minds—to start free and clear from the point to which His Excellency the Viceroy has directed our attention, and from that point say,—is there any case made out? The importance of this enquiry, of course, is very great. It is not for me to contemplate political consequences. I am quite sure, from the course that His Excellency the Viceroy has taken in this matter, that he is careless of political consequences, that he has desired to exhibit to the civilized world that the kingdom of India can be governed by honour, and that questions between the Government and those who may be supposed either to be antagonistic to or somehow in the way of the Government—that such questions shall be determined in such a manner as shall give satisfaction to civilization—and he has appointed for that purpose a tribunal to whom it is impossible not to look up. The native princes acquainted with the habits of their own order, I shall hereafter appeal to upon certain evidence that has been given during the progress of this case, and endeavour to obtain their assent to a proposition that I shall make that the story stated, is, upon the face of it, incredible. To the native princes I shall appeal as having at this moment the power and authority placed in their hands, and a belief reposed in their truth and in their knowledge—the exercise of which power will have to be answered for to the length and to the breadth of India. To those who are my own countrymen, I have only to say, I expect and know I shall possess that assistance and that fair consideration that ever comes from an honourable English gentleman, and I care not who the presiding officer of this Commission may be, provided he is a judge of England, because the very term judge of England, means independence; and no such thing as wavering from the truth, or yielding to power, or enacting, except under the virtue of strong convictions, strong belief, and independent feeling ever enters into the mind of any of those whom I am proud to call my countrymen—of any of those to whom the entire world look up as being free from anything like imputations of ever leaning to the right or to the left, and who as far as their judgment enables them, go straightforward, whatever might be the interests that were at stake, whatever might be the importance of the determination, whomsoever it might injure, whomsoever it might benefit. Under such circumstances I consider I am indeed fortunate in the tribunal I have the honour of addressing—and while I doubt my own powers and ability in placing the matter as I could wish before them, I believe, and the world believes and looks to them with implicit and absolute reliance, in their integrity as well as their knowledge and their judgment. Now, my Lord, in dealing with this case, the early evidence, as it will be in the recollection of your Lordship, applied to tampering with the witnesses. I propose, however, to postpone the consideration of the matters connected with that particular charge and to deal with the evidence applicable to the graver charge that has been made against the Gaekwar. I think that will be more convenient for one or two reasons. In the first place, the charge of poisoning, or attempt to poison, involves in many of its details the necessity of considering the evidence connected with the other charges, and the nature of those other charges, and I think that a great deal of time will be saved by taking the earlier charge first, and I am bound also to state, in doing that, I am unable to bring my mind down to the level of the other charge which I scarcely appreciate. It appears to me—comparatively at all events—trumpery and trivial. I feel some difficulty also in understanding the exact nature of it, or its exact legal bearings, but I shall when I come to consider it, endeavour to obtain the sanction of the Commission for the view I take upon the subject. In the meanwhile I shall deal—I propose to deal—with the graver charges and upon that, it appears to me, that it is desirable that I should make one or two general observations. With regard to the nature of it. I shall have to enter into a good deal of detail and particularity. But there is one observation that it occurs to me that I am entitled to make. I have already referred to the police. I find that the police are dealt with in different books connected with the law of this country, evidently upon the foundation of great doubts arising as to their testimony. I believe I am right in saying that with incertain jurisdictions—I do not go into details of such jurisdictions—that a confession made to a policeman is not receivable in a court of justice in any instance whatever unless there is some other person to corroborate it. So an uncorroborated confession of a person to a policeman would not be received. A confession to a policeman, as I understand, would not be received at all. There are some provisions in other Acts of Parliament (I believe, I am speaking correctly upon the subject) by which policemen are forbidden to accompany witnesses to a court of justice. It seems that the legislature and the courts are fearful of the influences that the police are likely to have upon these witnesses. Law of that kind do not apply here. As far as I see there is no law whatever governing the police or what they do. As far as I can see, they are entitled to do anything. They appear to me to have unlimited power, there does not seem to be any judge, any magistrate, who can control them—what a policeman chooses to do, he does; and, in the present case, I do not know how many—but a vast number of witnesses—have been detained in custody for the purpose, as they say, of investigating this charge. Now, such an unlimited power, undoubtedly creates—and it is necessary that it should create—a very great amount of terrorism—and you know no man can call his house or his person his own when a policeman is able at any moment to take him into custody and hold him whenever he chooses for any time he pleases, and there is no remedy in any way—no magistrate can interfere or does interfere, and he has no power whatever, either to obtain redress at the time, or compensation afterwards. It is the law, I presume, of the land. It is unquestionably the practice at Baroda. We have seen it in numerous instances, and we have seen the mode in which the police have acted with regard to different persons whose evidence was given in this case. In many instances I shall have to dwell upon facts connected with the police.

But there is one general observation which appears pertinent to this case, and I shall be glad to fix it upon the minds of the members of the Commission—it appears to me to be a most monstrous thing and calculated to lead to the gravest injustice—I believe that I shall shew in the present case that it has led to the gravest injustice—that a police officer should not only be the person getting up the case, doing all he can to bring it home to the person who is suspected of the charge, but that he also should have the power of taking the depositions, and that those depositions should be capable of being used against a person upon the subsequent enquiry or trial, whatever it may be.

Human nature is not less so because it inhabits the mind of a police constable, and a man who is hunting something down gets a keen desire to catch it—and sometimes if he cannot get at it by fair means he will go a little out of the way, and obtain it by foul. It is not right that that which is a judicial document, and intended to govern judicial minds, should be the act of a person who has a strong, a naturally strong, partizan feeling in the matter under discussion, and I think I shall be enabled to shew that this observation that I have made is singularly pertinent in the present case upon referring to some of the depositions that have been taken, and I cannot help saying—and I shall give my reasons hereafter for making the assertion—that these depositions are not warranted by what took place, that they have been unfairly obtained, and that in many instances they do not represent in reality what was said, and that in point of fact they do not in any way whatever convey the truth as was intended even in the mass of falsehoods, because these depositions contained that which the witnesses themselves did not intend that they alone represent. I think I shall be enabled to show this in a variety of instances, and that the observation that I have made upon these depositions which I shall put will be present to your minds—they are not to be credited. I treat them as being instruments coming from a source more or less suited with suspicion. Now, my Lord, there is another matter. It is a general one, and upon that I must rather address the President of this Commission than address the others, except so far as some of the observations will be mere ordinary commonsense observations which they shall be as far as I can, make them so, but they involve certain principles of law as well as certain principles of justice. One often meets, when these questions are being discussed in society, a number of people, very worthy people indeed, who say, especially if it is a subject of such great interest as this, "Oh so and so, there is no doubt that he is guilty." And I have no doubt whatever that that will be the kind of observation that I should meet with pretty generally among the English residents at, and English visitors to Baroda. This opinion is not confined to one sex, but I should think it is pretty generally extended. But let me endeavour to introduce a little reasoning into the subject and ask, "Oh! but why is he guilty?" "Oh! why you know everybody says he is guilty, there is no doubt he is guilty." Then you ask, "Upon what facts do you put it?" Then comes the puzzle. Facts are difficult things. And I have often observed that those who have given their opinion upon a particular subject dogmatically, have very little knowledge of the matters upon which these conclusions are formed. Belief, I apprehend, cannot be formed by mere intuition—such belief as ought to govern the minds of courts of justice, must be a belief founded upon facts. Now with regard to the facts—there, again, there is very often a very great mistake. People treat mere assertions as being facts without investigation, and without enquiry, and without analysis. But there is, moreover, a class of facts, and what may be dealt with as assertions, and which may also be said to be facts, that frequently come before courts of justice, and which have had the attention of very great and learned men applied to them for the purpose of dealing with them in a fair and judicious manner. I mean those statements that are made by accomplices—the statements that are put forward by persons who admit themselves to be parties to the crime, and I am extremely anxious in this case that the position of persons of that kind should be thoroughly understood; and I apprehend that I am not wrong in saying that no court constituted under British law will receive the evidence of an accomplice without confirmation. I am not unaware—and I should like to exhaust this subject, which I think will be an important one and one which I shall not probably allude to again—that there is no law to prevent a person being condemned by the evidence of an accomplice alone; but there is springing up a custom, as much honored as the law itself, that a judge in directing juries expressly direct them—and it would be a misdirection if they omitted to do so—that upon the evidence of an accomplice alone, no person can be put into peril, or have his liberty or his life imperrilled. That proposition is a simple enough one, perfectly intelligible, and I fancy so completely admitted that I need not labour upon it, but it will be well appreciated by the learned Chief Justice that there is a more important question subsidiary to that one, and that is, what is the nature of the confirmation that can with propriety be received to implicate a person charged. That is a question not of less importance, but it is a question undoubtedly of more difficulty. It requires clear heads and clear minds to deal with that question. I propose to make some observations upon it, and submit, not my views, but I believe the views of all lawyers upon the subject. Corroboration must be something that implicates, however slightly, the person charged with the statement of a witness—it must bring in some way or another the accomplice and the accused together. It would be confirmation, supposing there was any writing in the handwriting of the accused, in which some of the statements made by the accomplice were alluded to, and, although it might be very slight confirmation, it would be confirmation of a kind that could not be rejected. The confirmation that is simply supporting the assertions of the accomplices themselves as to their own acts, independent of the accused, away from the accused, out of the presence of the accused, and not shown to be within the knowledge of the accused, is no confirmation whatever. To put the matter broadly, even if you could get, and that seems to be difficult, a respectable witness into this case who had seen Rowjee put the poison into the glass of Colonel Phayre, if he did put it in, would be conclusive against Rowjee, but it would be no evidence whatever against the Gaekwar. I put that broadly because it makes each proposition that I have submitted to the Commission perfectly intelligible, and it is an observation that I think the Commission will find follows every witness in this case, and follows all the evidence that has been given in this case. I think that I shall demonstrate that that confirmation that is said by the law to be required to support the assertions of accomplices against an accused person, is wanting from the commencement to the end; that there is not in point of fact, a scintilla of evidence coming from an uncorrupt witness which, in any way whatever, confirms the evidence of the accomplices in this case. I may put illustrations founded upon this case very shortly. Supposing there is a word of truth—and I do not say there was not—in the assertion of Damodur Punt that he obtained arsenic from the man Nurrodeen; supposing Nurrodeen had been called and proved the receipt of the arsenic; supposing there was any confirmation whatever, or assuming that there is confirmation that diamond dust or diamonds were obtained from any individual—that is confirmation, if the man himself were under charge—that would be proof against him, but it does not confirm his story against the Gaekwar, and I think this Commission will find, after careful investigation of all the evidence in this case, that from the commencement till the conclusion, there is no evidence whatever that introduces the Gaekwar personally or by letter, or by writing, or by act. There is no independent witness who has put his finger upon one single act of the Gaekwar that in any way whatever confirms the story told by these accomplices. As I discuss the witnesses—which I am afraid I shall have to do at considerable length—I shall have to discuss the details that they give in the shape of confirmation, and I think I shall satisfy the Commission, who have heard my proposition on that subject, that it is at all events a perfectly correct one, and having, as I hope, made myself clear on these topics, I won't trouble the bench further on that subject, but request them to consider the observations I have made and say after that whether or not I have laid before them a proposition that is not only legal, but one which commends itself to men of sense and learning, though they may not have the learning and experience of lawyers. It is sometimes said, and sometimes written—said by people whose words are not of much value, written sometimes by people whom one would have supposed knew better, —"Ah, do not let us have any technicalities." And I think I have seen it stated in relation to this case somewhere, that there will be no legal quibbles in this case, it will be tried according to common sense and reason. Technicalities will be entirely excluded. Those who talk that way forget that the technicalities they so much abuse and which govern the practice of courts of justice, are the work of the experience of great lawyers and great men, of the judgment of those who have considered the question of how the truth is best elicited, and that these technicalities, which are abused by thoughtless and silly people, are in point of fact, the bulwarks of their country, and the means by which truth is sifted out of lies, and has been created and recognised by the wisdom of ages as the best mode of establishing the truth. I shall not trouble you further with the discussion of a subject which certainly does not possess any features of amusement, but shall proceed to direct your attention to what I consider to be an important feature in the case. I am not going to make any observation or complaint further than this that I have already made about the position in which His Highness is already placed. Those who have done the acts are responsible for them, and their doings will not affect the judgment of this Commission. I may, however, allude to them, so far as they may be pertinent to this enquiry, and I think you will agree that this observation is fairly pertinent—that the Gaekwar, from the position in which he has been placed from the piratical seizure of all his possessions, or, to use the euphemism of the Resident, Sir Lewis Pelly, to their attachment—an attachment of so lasting a character, that the Gaekwar has never yet seen the end of it, so that so far as he is concerned, whatever word is applied to the subject is extremely immaterial. In relation to all this, I say, he has been placed without means at his command and is under a cloud, and I need scarcely add the observation that the position in which he is placed naturally creates many difficulties in meeting any charge of any nature such as is now preferred against him. I will say no more upon the subject. I think the observation will meet with ready assent, and I do not propose to refer to it again. But I propose, with great submission to the Commission, to dwell upon what has been the conduct of the Gaekwar, and also what his interest would be in this matter. It appears to me to be an extremely important subject indeed. I should venture to say, in a case surrounded as this case must be admitted to be, by perjury, it becomes extremely important to view that which must in any way whatever, be the effect of falsehood, of fraud, and design. I therefore earnestly, and at the same time most respectfully and humbly, ask the members of this Commission to consider what the conduct of my client has been from the day of the period which forms the date of this transaction, namely, the conclusion of the Commission that was held before Colonel Meade. It would be irrelevant for me, as it would be irrelevant for this Commission, to consider the enquiry that took place before one thoroughly competent to form a judgment and to assist the Viceroy of India by his views upon that or any other subject. I wont say or suggest, except by a word, that much which appeared upon that Commission may have been applicable to servants, and not directly to the Gaekwar, but I pass away from that. The terminus from which I begin is the end of that Commission. The conduct of the Gaekwar from that period is a matter to which I have to solicit your earnest attention. I have to solicit it with a view of asking you to say it was not the conduct of a man who was designing and arranging a crime of [illegible] but that it had all the contrary appearances. It is not merely negative. I wish very much that my observations upon this point should be made with sufficient clearness and force to fix them on your minds. I assert that it is not in human nature that a man should be acting openly in the way the Gaekwar did, and avowedly against the person against whom he was also plotting secretly. It will be obvious to the meanest intellect that people would at once say, "Yes, here is the man that has done it." Ordinary common sense, to give no higher name to it, ordinary cunning, would prevent any course of that kind. I should expect that a man who was about to poison another in the way suggested against the Gaekwar, would be all affection with the man he intended to poison, and I should expect to find him destroying any evidence that he desired to do him evil. Instead of that, you find him in conflict with Colonel Phayre certainly, but in a fair, open and honourable way. He obtained a khureeta from the Viceroy of India—an important document in which the Viceroy, after having considered Colonel Meade's report, after learning all that could be said upon the subject, after deriving all the assistance that could be given to him by experience, ability and knowledge,—came to the conclusion that the Gaekwar was a person who might under certain conditions be entrusted with the reform of those institutions, the bad arrangement of which had formed the subject of the preceding enquiry, and he gave to the Gaekwar an opportunity down to the end of the year 1875 to effect the necessary reforms. He therefore had received from the Viceroy the clearest proof that in the viceregal court he would meet with fair consideration, with fair judgment, and that he would be given a fair chance. Well, why should he interfere with him? But he finds,—and upon that I shall have to observe hereafter—every sort of opposition to the proceedings he was taking, and to the endeavours he was making to perform that which had been suggested by the Viceroy. I do not think it is unworthy of remark the observation that was made by Sir Lewis Pelly in his examination, yesterday of what his experience of the Gaekwar was. He found him quite amenable to reason; he was able to act with him upon most agreeable terms; he found that he was perfectly ready to do what was suggested to him in the interests of his Government, and according to the desire of the Viceroy. And one cannot help making the observation that there is sufficient and abundant evidence—and I think I shall be able to point out without any unnecessary harshness or unkindness—that Colonel Phayre was about the very worst man who could have been placed in the position he was in, that he was in his conduct most injudicious, and that the Gaekwar had most reasonable ground to complain of the conduct he pursued. One little incident is enough for me, and I think I shall have to dwell more upon this hereafter. You, Gentlemen of the Commission, can do what I cannot. You can realise the native mind and the native reason, and I ask you—and I think you will agree with the comment I am making—could there be anything on earth more injudicious than for Colonel Phayre to show himself in daily and hourly intercourse with the very bitterest enemy the Gaekwar ever had? Could he have thought under such circumstances, justice was likely to be done to him? Moreover, *was* justice likely to be done to him? I venture to think not, for although Colonel Phayre imagined, and stated that Bhow Poonikur was a most upright and highly honourable man, I venture entirely to dissent from that opinion, and to think he was nothing more than a spy, and a person who, with other persons too numerous to mention, was hunting up for that very information which the Gaekwar is accused of obtaining—hunting it up in ——— much the same way—not perhaps receiving for it specific sums of money, but receiving Colonel Phayre's patronage which would put more in Bhow Poonikur's pockets than a few rupees would do, as it would show that he had the ear of the Resident; and it must be remembered that this man must have appeared before the eyes of the Gaekwar as being a person who, in all human probability, was controlling all the actions of Colonel Phayre. Is it wonderful then that the kureeta of the 2nd of November should have been framed? Of course the gentlemen of the Commission have all the dates in their minds, so that I need not ask them to recollect them particularly, but in dealing with it, it seems to me a matter of importance to remember this date. I allude to the 2nd November. Immediately previous to that time the khureeta was being framed. It must have been a subject of very grave deliberation. It is, as far as my humble judgment goes, a very admirable document. Everything is put most fairly, most temperately, and at the same time argumentatively, while not leaving matter upon bare assertion without proof. Two or three cases are quoted of what he alleges to be the gross injustice perpetrated against him by Colonel Phayre. The case propounded by the prosecution is that at the very time this khureeta was being prepared, simultaneously with it—day by day and hour by hour it must have been going on—arsenic, diamond dust, contrivances by all accounts the dreariest remains of ancient superstition, bottles containing poison, such as one may read of probably in the Arabian Nights, but which I should have thought would have been hardly alluded to in the darkest places in the nineteenth century. But all this time while a great state document of great importance was being prepared with care and argued out with judgment—while this is being prepared by himself and his ministers, he is accused of mixing himself up with a parcel of scoundrels, and inviting them to poison the man whom he must have

known perfectly well. [illegible] have to answer this khureeta, and whom he also must have known it would be perfectly useless to act in any way whatever against, till this khureeta was answered. Of his object, I shall say nothing more at present; but when I come to objects I shall have to say a good deal. There are grave matters in this case that will present themselves, and I cannot help thinking, before it is concluded, the real criminal will be discovered. I cannot help thinking so. But talking of the probability of the Gaekwar being that criminal, I wish to impress—and this is a matter that I shall have to dwell upon hereafter—as strongly as I can on the minds of the Commission, that such an outburst as would arise from the successful poisoning, or unsuccessful attempt to poison, must in all human probability have utterly prevented any attention being paid to the khureeta. In this particular instance, the Viceroy appears to have attended to it immediately, and notwithstanding this alleged attempt occurring, to have answered the khureeta in most favourable terms. But it appears to me if the Resident had been poisoned, in all human probability, there would have been an end of the enquiry raised by the Gaekwar, and that the greater subject connected with the kingdom, the poisoning of the Resident, of the Queen's representative in that kingdom, would have smothered everything like an enquiry into other matters, and probably would have led to a deposition of an entirely different kind, upsetting from the beginning to the end all the endeavours of the Gaekwar for the purpose of obtaining what he considered justice at the hands of the Viceroy. I submit that would be the natural result,—in point of fact I should say the almost certain, result of such an attempt whether successful or not, therefore I venture to think that the two things are totally inconsistent: that the kureeta and poison'ng do not agree; that they do not go hand in hand; that they are poles asunder; that they diverge of necessity; the man whose mind was on the kureeta, that would not do anything that would be likely to make that khureeta of no effect and at the same time bring another Resident together with, as he must have known the severest investigation and one that might be attended with the most dangerous consequence. Having remarked on the conduct up to that time of the Gaekwar, I wish now to proceed to the period when suspicion, or rather before I arrive at that, I wish to call your attention to the conduct of the Gaekwar during the interval, when you have been told by Sir Lewis Pelly, he was free from all restraint, under no watch, and not interfered with in any way whatever. The suggestion of the prosecution is that upon this man's mind is the knowledge of this heavy crime, and he also knows, if the story be a true one, that the immediate actors in this crime are persons who have been already suspected, that enquiries have been made, and that the train is laid by which ultimately the truth may be arrived at. At this period his Secretary Damodhur was not under charge. Damodhur, who certainly, whatever other elements may be wanting in his constitution is not wanting in intelligence—would of course have communicated with him and according to Damodhur Punt's evidence, he had communications with: so if Damodhur Punt's evidence is to be believed, his mind was quite alive on the subject, at all events his mind would necessarily be alive from the fact of Rowjee and Nursoo having been taken into custody, and this matter being investigated. Well, during all this time he has control of all themeans connected with his Government. The control of money sufficient for the purposes I am about to suggest, and the question is what his conduct was, and whether that conduct is what you would expect the conduct of a guilty man to be. I submit that it was not. On the contrary, it was the conduct of an innocent man. It is not pretended that he had communications with Rowjee or Nursoo; it is not pretended that either by his agents or otherwise he endeavoured to get them out of the way. It is not suggested that any attempt was made by his agents or others to bribe them. He remains there knowing, if the case on the part of the prosecutors is a true one that he was sitting upon a mine to which a match might be at any moment applied; knowing that he must be necessarily blown up by it, and yet there he remains careless, pursuing his ordinary favocations, seeing Sir Lewis Pelly each day, dealing with Sir Lewis Pelly anxiously for the purpose of meeting the views of the Viceroy daily in the town, daily having an opportunity of seeing Rowjee, daily having an opportunity of seeing Nursoo, his secret agents, I suppose he would have no difficulty in finding some whom he could use for his purpose, and there is not a single act from the beginning to the end of that period—and I urge this upon the Commission—that is indicative of anything but the most perfect freedom from being guilty of the subject of the matter. That was then being investigated and now charged against him. A very few words more about him. I had intended rather to have deferred my observations upon this matter till a later period, but one does not always follow the exact arrangement that one has made, but having alluded to it, I will now conclude my observations upon the subject of his conduct, by begging attention to the evidence given by Sir Lewis Pelly, yesterday as to his conduct when he was requested to send Yeshwuntrao and Salim to the Residency. I think I may ask you to refer to the correspondence which I put in on that subject. Sir Lewis Pelly left no doubt whatever as to what was the nature of the enquiry, and as to his object in asking for the presence of these two persons. What was the conduct of the Gaekwar himself? It may be great deceit and it may be great hypocrisy, but it is a deceit and hypocrisy that he has not shown in any other part of his career. It may have been great deceit and great hypocrisy, but it is inconsistent with anything you find in the earlier period of his conduct regarding the matters which have given rise to this trial. It may have been deceit and hypocrisy that he exhibited, but bear in mind that he sent Salim and Yeshwuntrao without hesitation, without a moment's delay, and without any communication having been made to them by any human being, they were permitted to come to the Residency and state all they knew about the matter under the hands of acute police officers; under the hands of authority, under the hands of the law. He knew the power of the law, he knew the power of the English Government, he knew how much could be brought to bear upon a person against whom there is an accusation by the British Government. And yet the supposed attempted murderer has never interfered with any of those persons, never attempted to corrupt them or buy them over and when their presence was required at the Residency, he immediately without communicating with them, ordered them to go there, went himself, offered himself in every way to give every assistance; and I take the liberty of saying that while his interests and his conduct militate against his contemplating the act of poisoning, his subsequent conduct shewed as conclusively as a man's demeanour and conduct can show that he had never been a party to it. I submit for your better consideration and judgement these observations upon the subject of what his conduct was both before and after this charge, and I hope you will not consider that I am too sanguine in supposing that they are likely to have great effect on your minds, and that effect of a kind much calculated in favour of the Gaekwar. At that time as your Lordship is aware, I mean during that month while the Gaekwar was at liberty and free from anything like restraint, Salim and Yeshwantrao were his servants, under his control, and there would have been no difficulty whatever in their removal if it had been desired. Another remarkable fact in this case is that while there is evidence of sums of money of a comparatively small amount being paid, as was supposed, for information to the ayah and to others—I say comparatively small amount because as far as I recollect the evidence the amount is small, your Lordship will correct me by your notes if I am wrong, I am speaking now without looking at my notes, but as far as I recollect there is not a half-penny supposed to have been paid to any of the alleged actors in this murdering transaction during the whole of the time during which the transactions were being carried out. I think I am right in saying that it was about August or September, certainly not later than these months, that any sums of money whatever were paid, and while it is supposed the Maharaja is spending money recklessly for the purpose of obtaining information, there is no evidence that a farthing was paid to any of his accomplices in the murder he contemplated. There is undoubtedly another instance in this case of remarkable modesty and self-denial on the part of Rowjee and Nursoo—one is glad to find any good qualities remaining in their constitutions—they never seem to have asked for any money. My Lord, you see that we were in the hands of these men, for supposing they had told that they had received sums of money, probably they would have had to shew how they had spent it so that they dared not assert it and so on. If that be so, we have I think a feature quite unnatural, that the prince put himself absolutely in the power of half a dozen of his subordinates, because one of the curious matters in this case is that the Gaekwar, who is said to be rather reticent in one of the examinations seems to have been extremely anxious to parade in a most unnecessary fashion his intention to poison Colonel Phayre, and if, in point of fact, he had been anxious to make up a case against himself, he could not have gone more effectually to work, for while one instrument would have been quite sufficient, he seems to have taken endless opportunities of proclaiming his intention, and surrounding himself with conclusive evidence of four or five witnesses, at least four of whom were quite unnecessary for the purpose he is supposed to have had in view. There cannot be a more remarkable instance of that than Nursoo himself, for if you look through the whole of his evidence I ask you whether that man has been brought here for any purpose except to corroborate the lies of Rowjee, for from beginning to end he was useless in the transaction, and he is brought into the presence of the Gaekwar for no earthly purpose in connection with the crime that was about to be committed. All that I find about him is that "Salim will hand you so and so." They make him an intermeddler, and an entirely unnecessary accomplice to the crime,—Not very natural, not very probable this. But Nursoo leads him into most unhappy matters and entails upon him most unhappy consequences I fear, my Lord, that in pursuing a consecutive argument,—the materials are so abundant, as the investigation has lasted such a long time,—that somehow or other, in the arrangement of matters, I may get into confusion, but I shall leave it to the Commission to put my omissions right—I shall endeavour to be as clear as possible, and I shall also endeavour to be as concise as possible. I think, my lord, it may not be undesirable that I should refer more particularly to the case as it has been put before you—and, for that purpose, I shall refer to the speech of my learned friend the Advocate-General—a speech in all respects, worthy of the high position he holds—perfectly temperate, and fair, and not an observation introduced into it, about which, on the part of the Gaekwar, I feel I have the slightest right to complain; in fact, I may say that one of the pleasures I have had in the conduct of this most painful and anxious case, has been the continous courtesy I have met with from my learned friend, and the assistance he has afforded me, whenever he could justly give it to me. I propose, as I have said, to refer to his speech, because it is a careful speech, and has been founded upon instructions carefully given. I call your attention to the mode in which he places this case and the feature to which he invited the attention of the Commission, as being those upon which he should ask your judgment adversely to the Gaekwar. He divided the matter into the charge of tampering with the servants in which he suggested the ayah as being one of the principal performers. I ought, however, before I comment upon what my learned friend did open, to refer to one very remarkable omission in his speech. The omission must have been deliberate, and so far as I can see it is omitted of necessity. He does not from the commencement to the conclusion of his speech suggest any motive that could have actuated the Gaekwar to commit this crime. It has been left to me to bring out the position of the Gaekwar and his course of proceeding to show what motives he had, and comment upon these motives, and what they probably would have led to, but my learned friend suggests no motives, although he must have well considered this matter, it must have occurred to him as the first thing that should be dealt with in proving a great crime like this; but my learned friend has been unable to put his finger upon any single position that existed in connection with the Gaekwar that would have shown whence a motive could have sprung for the commission of this great crime with which he is charged. I say he alluded to the tampering of the servants, but he did not suggest or allege that there was any connexion between the Ayah, Rowjee, and Nursoo. What is also very remarkable is the following fact, which I shall ask your permission to say a word or two about. The Advocate-General introduced into this part of the case a person of the name of Pedro, who, according to my learned friend, was chief butler, and had been butler for some five and twenty years, and whom he connected with that branch of the case which I have described as being the tampering with the servants. After the mention of Pedro, my learned friend says, "I now come to the more important part of the case." So that he divides the case into two parts—the acts of the ayah, and one or two other persons, and the acts of Pedro, in connection with the tampering of the witnesses and then he comes to the acts of other persons in support of the allegation of poisoning. It becomes important that we should consider the mode in which my learned friend has introduced the man Pedro, who forms a most important feature in this enquiry. I have no hesitation whatever in saying that independent of almost every other argument in the case, and taking a certain view of the case, the evidence of Pedro entitles the Gaekwar to an acquittal on all the charges brought against him. It becomes therefore extremely important to consider how my learned friend has dealt with Pedro, knowing perfectly all that Pedro had to say, knowing who Pedro was, and having to introduce him to your notice—Now my Lord Chief Justice who presides is well aware how witnesses of a certain kind may be introduced into a case. Supposing that testimony is at all suspicious—there may be a doubt under such circumstances as to whether they should be produced as witnesses. My learned friend has of course deliberated on this matter. He has not attempted to cast the slightest slur upon Pedro. He has introduced him as a perfectly repectable trustworthy witness, and as a person to be relied upon as proving a particular fact. He had been twenty-five years in the employment of the Residency. I have a right therefore to say that from the beginning to the end of this case, there has not been suggestions of anything which would cause me to say that Pedro is not amongst the whole group of liars and perjurers who have been introduced, to support this case, the man against whom no imputation whatever is east. Pedro puts this case out of court. If Pedro is to be believed, there is an end of it. The entire superstructure must tumble. Rowjee, the main actor, cannot be believed as his evidence stood, but here it is contradicted up to the very hilt, and I will show you internal evidence, presently of the truth of Pedro's statement and of the falsity of the statements made by Rowjee. Without, however, entering now upon that particular evidence I shall deal simply with the particular fact that a man introduced here by my learned friend as a thoroughly respectable witness, competent to prove a fact, a man upon whose evidence he has asked you to find a decision against the Gaekwar, a man who, for ought I know, has been a confidential servant for a quarter of a century, declares in the witness-box here that every word deposed in relation to him by Rowjee is a foul lie and fabrication. My Lord, I feel it very difficult, indeed, to say more upon such a point. It appears to me that as far as Rowjee is concerned, the evidence against him is conclusive, and if you agree with me that upon Rowjee's evidence this case must stand or fall, then Pedro strikes a mortal blow to the whole case, from which I think that even the ingenuity and power of the Advocate-General will not be able to rescue it. He will attempt to avert it with all the fairness which, as the representative of the Crown, desirous simply for justice, he can command; but I think that, notwithstanding, it will puzzle him to find an argument to convince this Commission, that if the evidence of Pedro can possibly be believed, it is not possible to believe in Rowjee. I am reminded by my learned friend Mr. Branson, to whom I have constantly to offer thanks for his assistance, that Pedro oddly enough is the only person whose examination does not appear to have been conducted by parties to the case. He was examined at Bombay by a Justice of the Peace and Deputy Commissioner of Police there (referring to Mr. Edgington), There are some things that must be and which can never be denied. I apprehend that, in the first instance, you have such a case. You have got Rowjee and you have got Pedro. You cannot believe both of them, it will be impossible to do so. I shall comment upon Rowjee's evidence presently, and in the meantime, I shall say nothing more about Pedro's evidence. It is not necessary for me to give a character to a man from whom my learned friend has not attempted to take it, but who, on the contrary, has been relied upon by my learned friendfor the proving of what he deems to be an important part of this case. Now, my Lord, my friend, having stated that he had come to the more important part of his case, proceeds to open upon the attempts to poison Colonel Phayre, and I think that your Lordship must have been surprised at the instructions which my friend received upon that subject. My learned friend, in his opening, makes no mention of the earlier attempts to poison. He does not allude to the earlier attempts which are said to have taken place to poison Colonel Phayre, and which form an important part in Rowjee's testimony. I do not remember the dates, but I shall call your attention to the subject afterwards. I merely call attention now to the fact that my learned friend does not mention it in his opening. I can scarcely imagine an omission of that kind to be accidental. Probably my learned friend thought it was so utterly incredible that he did not like to put it gravely before the Commission, and I think I shall be able to show that if such was his idea, that it is a correct one. But whilst he does not speak of these September attempts, he opens upon two attempts by Rowjee on the 6th and 7th November, while Rowjee himself, as the Commission will remember, declared that he did not make any attempt either upon the sixth or the seventh. It is perfectly true that although there was no attempt made upon the 6th and the 7th, yet Colonel Phayre had all the distressing symptoms just the same. Colonel Phayre looked back to the times when he ought to have taken the poison, and when he ought to have taken it his stomach was always in a most uncomfortable state. If it was so upon the 6th and 7th, it must have been the pummeloe juice because there is no poison. Rowjee, who was said to have put in the arsenic, does not assert that he put it in on those dates. That tumbles to the ground altogether. On the contrary he says, "All that I received I put in on the 9th November." There can be no doubt whatever that liars often forget themselves. It is one of those fortunate arrangements of nature that liars very seldom have a good memory; and nobody can do that when my learned friend opened the attempt at poisoning on the 6th and 7th, Rowjee had made his statement, that there had been this attempt at poisoning. I forget whether he said so to Mr. Souter or not. It is quite clear he made it to somebody because this statement my learned friend was instructed to make. Well, when Rowjee came to be examined, I quite admit his position was not altogether a pleasant one, and his memory might not be altogether so retentive as it might be. He made no allusion to the attempts of the 6th and the 7th, but on the contrary he made a statement in effect entirely inconsistent with that, saying that he put the whole of the powder he received in Colonel Phayre's tumbler on the 9th. My friend then refers to the orders to procure arsenic from Hemchund Futteychund, about whom I shall have to say a word or two when I come to the evidence of Damodhur Punt, and I place before you a probable solution to this part of the case. But my friend makes an observation which I think also I may say was upon his instructions, and upon which also there is a direct and positive contradiction. He says arsenic and diamond dust appear to have been pounded together and handed over by Salim to Rowjee upon two occasions. In page six of the short-hand writer's notes, my friend says: "The arsenic and the diamond dust appear to have been pounded together and handed over to Rowjee by Salim on two occasions." The importance of that I shall deal with in another portion of my observations, but I may briefly say that this diamond dust and arsenic are the diamond dust and arsenic supposed to have been given upon the first occasion to Rowjee. Arsenic and diamond dust are not said to have been received at all upon the last occasion. One powder only is said to have been given on the last occasion. But the two packets are said to have been given to Rowjee for the purpose of being administered to Colonel Phayre somewhere about September. Why it is important to consider what my friend was instructed to open, is this. From my friend's opening, it appears to have been compounded together. Now, the statement that Rowjee makes now is that there were two packets given. He divides it into three portions—one packet into white and the others into a rose-coloured powder. Probably it is rose-coloured because Rowjee had heard of rose diamonds. I rather imagine he introduced the colour out of compliment to the name. At any rate there were two powders, one of arsenic and one of something like rose-colour powder. That is his first statement, quite inconsistent with the diamond dust and arsenic compounded together—perfectly so, for if they were compounded together the arsenic could not have come into Rowjee's possession. It was necessary, therefore, for Rowjee, in support of the lie about the belt and the arsenic found in the belt—it was necessary for him to invent another story, and therefore Rowjee does invent this very remarkable one. He says that there were two powders given to him, not compounded together—that one was separate and the other as I pointed out rose-coloured. Then Rowjee—whose mind is of a peculiar character, made up of murder and mercy, of affection for Colonel Phayre and a desire to kill him—thinks that this white powder is too poisonous to administer, and he accordingly in making up the packets mixed up three packets principally of the rose-coloured powder and put in a small pinch of arsenic not calculated to harm anybody and put it in the rose-coloured powder; and then he deposited that which was intended to poison Colonel Phayre in this girdle and forgets all about it. I shall have to comment upon the belt episode after. It is a very peculiar and important episode and is indicative of what the case is. It is not wrong that I should refer to that and point out the entire difference between the case my learned friend was instructed to open, and the facts which have been proved. I shall be obliged to refer to these matters again at something like great length, but I mention them now to request you to give such consideration as my observations and the facts themselves lead you to consider they are worth. Then, my Lord, my learned friend, being in serious difficulties, having no motive to suggest, suggests that there is a confirmation arising from the absence of communication between all the witnesses. He dwells upon that as being a strong evidence of corroboration. Perhaps that would be about as near an approach to as anything in confirmation of this case; and although I should say it was trumpery that could be given and trashy, yet perhaps it has some claim to be considered as evidence of corroboration if it were the fact. The only fault is it is utterly without foundation. Not only had the witnesses intercourse together, but they were invited, by that respectable gentlemen, Akbar Ali, in a most persuasive manner, to give every particulars to him; and they generally made a statement after having passed a not very comfortable twenty-four hours. There seems to be a process—what it is I do not know—that after having been under the gentle care of Akbar Ali, and probably quite accidentally, they are made very uncomfortable in their minds and at once make a statement. That, as confirmation, falls to the ground, and I shall point to a way they were brought together for the purpose of having their evidence manufactured—and how completely it was manufactured from beginning to end—and I shall, I believe, lead your minds to that conclusion which will be pretty well bounded by this. I do not think need here do more than use the name Gujanund (I wish he had a name I could pronounce better.) I think that when they talk of fairness and of the witnesses having no opportunity of seeing each other and of confirmation from that source, whenever they talk of fairness all I need say is Gujanund. Nothing can be fairer, my friend may say, in relation to these witnesses. I answer—Gujanund. And if, when Gujanund is fully impressed upon the minds of the Commissioners, and when they remember the active and intelligent officers, as they will be called in the London papers, whose assistance he had on all occasions. I think the notion of the witnesses not seeing each nor knowing what they were about to say is the most comical that has ever been brought before a Court of Justice. If they had had memory at all equal to this information, these blunders would have been escaped; but, as I said before, liars have not good memories and do not always recollect what they have said on former occasions. Therefore, notwithstanding Akbar Ali, Abdool Ali, and Gujanund, who in their zeal for their country and themselves. I do not think this Commission will believe it. My friend then came to another point in his case. Up to this time he seems to have known that there was no sympathy in his case to offer to the Commission. He felt that he had a terrible lot of rogues and a deal of falsehoods, or probable falsehoods, to allude to, and there was nothing whatever in regard to Damodhur Punt and to Rowjee that could redeem them from the depth of rascality into which their own admissions have put them. But at last my learned friend comes to an oasis in the desert of miserable lying which he had been obliged to wade or rather travel through. He comes upon a Nursoo and my friend is at once relieved. There is something to dwell upon, something of innocence, something of virtue, there is repentance. My learned friend introduced him, I noticed that his voice almost trembled as he said, "One other circumstance in regard to Nursoo deserves to be mentioned. He had been in service at the Residency for many years, and had held a high position there, as I have already said. After he had made his confession he felt so full of remorse for his conduct that he attempted to make away with himself. When he had made this statement, and was leaving the Residency, he attempted to drown himself. He broke away from his guard, and attempted to throw himself down a well." It turns out, however, that he had had a dinner at the Residency—I have no doubt a very good one. He was standing beside the well and saw people, and he was seized with a vertigo and tumbled into the well. And notwithstanding all my learned friend's efforts to push him into the well, he could not go in except by his own act, and my friend could not get him to declare more than that he tumbled into the well. They say that truth is found at the bottom of a well; but on this occasion the police were too quick and rescued him before he had found any. So we pass away from Nursoo. The next matter to which my learned friend alluded, and upon which also he had depended for confirmation, was the demeanour of the Gaekwar when he called upon Colonel Phayre on the 9th November. My friend said:—"Colonel Phayre was still suffering when the Gaekwar visited him, but had not heard from Dr. Seward the result of his analysis. He received His Highness as usual, and was very much struck in the course of their conversation at His Highness describing to him the very symptoms under which he was then suffering. The Gaekwar said there was a great deal of sickness about, and he said that he himself was suffering in very much the same way. Colonel Phayre did not say anything to His Highness at the time. Perhaps he had not then any suspicion, or at any rate any definite idea, that he was being poisoned. If Damodhur Punt speaks the truth, His Highness perfectly well knew at that time what had been done, because he picked up the Punt on his way and had some conversation with him." My learned friend intended to convey—and it would have been an argument of great weight—he wished to make it appear that His Highness knew, had the necessary medical knowledge of the symptoms of arsenic, that he represented that he himself suffered under exactly the same symptoms from natural causes. I read the symptoms from a letter from Colonel Phayre to Dr. Seward or Dr. Gray—I see it is to Dr. Seward. "A most unusual sickness of stomach, accompanied by dizziness in the head and of sight, producing confusion of thought, also a most unpleasant metallic taste in the mouth with slight salivation, such as I have never experienced till within few days." These are the symptoms described by Colonel Phayre, and those are the symptoms my friend is instructed to say are identical with those which the Gaekwar attempted to make Colonel Phayre believe he was suffering under from natural causes. I have therefore looked into what the evidence of Colonel Phayre was upon the subject. He says, "I asked His Highness about his health, and he said that he had not been very well, and that there was a good deal of fever about, and he thought he must have eaten too many sweetmeats of the kind usually made at the Dewallee. He also said that he had headache and a slight pain in his stomach, but he was well now." It is rather difficult to associate the description which he gives of the slight pain in the stomach from eating sweetmeats, with the description by Colonel Phayre, and I believe another observation was made as to there being something unusual in asking Colonel Phayre about his health. Indeed, I am reminded that Colonel Phayre led up to the question by speaking of his own health. When I look at Colonel Phayre's evidence, I am warranted in saying that the whole of the Gaekwar's demeanour, and that the visit was the ordinary visit he made to him on that day, that there is no ground whatever to say he was acting in the slightest degree. I have thus, my Lord, dwelt with my learned friend's speech, which is valuable, not only for its ability, but as opening out in the clearest manner what his view is of the evidence. Now, he says that this case depended upon Nursoo and Rowjee; he admits them to be accomplices in the crime they say was committed, and that he considers that in ordinary practice—and the practice will be observed in the present occasion—that confirmation is necessary; and he undertakes to give that confirmation. He gives three samples—one is that the witnesses were kept separate. I have already referred to that to show that wherever traceable the contrary was the fact. Will any one for a single moment doubt that there is any honest confirmation in the conduct of Nursoo. Here is a man who, on one occasion, was wicked, and once repented. With what object was he introduced into the case? Did the Maharaja, on any occasion, give him anything to do? He has done nothing, so that that has fallen through. As to the demeanour of the Gaekwar and his allusion to his own maladies which he says were identical with those of Colonel Phayre—that also tumbled down to the ground. Therefore, as far as my learned friend's case has opened, Damodhur Punt, Rowjee, and Nursoo require confirmation. He has failed in those points on which he relied to give confirmation. He has opened with Pedro as a witness to be relied upon to give confirmation. He has opened with Pedro to be relied upon making no comment to detract from his evidence and credibility, and he knocks over the main point of Rowjee, and, if Pedro be true, Rowjee has entirely perjured himself. Then, if I am right in the observations I venture to make in this portion of my address upon this point, we are now left entirely and absolutely at the mercy of the three accomplices; and it is upon evidence of such witnesses, filled with other inconsistencies, that you are asked to deprive the Gaekwar of his honour, of his property—to cast him forth as a helot in the world—from whom all would shrink—a man whom, if you were sitting here in another capacity than that of Commissioners, if you were sitting here as jurymen—a man whom without hesitation you would hand over to the scaffold. And this result is asked of you, to be arrived at upon the evidence of men admitted by my learned friend to be accomplices, and show, I think, by this time at all events, which I have ventured to hope or implied to address you, to be accomplices without a shadow of foundation. I will now—and before going to other evidence, because I may do so with propriety and conveniently—refer to the evidence of Colonel Phayre. He is the centre figure in this extraordinary story.

I have no wish to say a word more than I am absolutely obliged to do that can possibly hurt the feelings of Colonel Phayre, who, I have no doubt, is a thoroughly upright and honourable man and a gallant and distinguished officer; but I venture to think that Colonel Phayre was entirely unfit for the position he held—an extremely delicate one—and he was known by the Gaekwar to have met with a reprimand of a most serious kind, not involving, but on the other hand, conceding his honour and integrity but, dwelling upon his want of tact and judgment in the management of delicate affairs. I think I am not putting it unfairly. He said, and no doubt truly, that a subsequent Governor cleared him from this imputation. This gives me no dissatisfaction, but, on the contrary, I never wished to use that document as charging Colonel Phayre as deserving of the censure passed upon him. I used it simply as one of those document acting upon the mind of the Gaekwar is that Colonel Phayre was scarcely the person to occupy the position he did, and that eventually he would be removed upon a complaint being made. Colonel Phayre most imprudently associated himself with a person or a number of persons who were not friendly to the Gaekwar. Bhow Poonikur was a specimen of the lot. They say they got no money; but they got patronage, which was probably very much more valuable to all these men, to whom Colonel Phayre seems entirely to have lent himself. From mixing with these men Colonel Phayre comes to the conclusion that Bhow Pooniker—God only knows how he comes to the conclusion—is or was an honourable man. We know not upon what grounds he came to that conclusion, but he made a right-hand man of him who had been so active against the Gaekwar. Then Colonel Phayre has a great notion of redeeming a persecuted people. He is the saviour to whom the people looked and made entreaties to. When he drove out he was met by persons who petitioned him, and he was a ready listener to all their complaints. Such demonstrations are not ungratifying to the vanity of some people, but are little proof of the truth of the complaints nowing as they did that his ears were open to any complaints that might be uttered against the Gaekwar, ready enough to give ear to such congenial food to his imagination, and to listen to those who would make assertions which he would readily accept. I have already alluded to what must have been the feeling of the Gaekwar when he saw Colonel Phayre in daily, almost hourly, communication with Bhow Poonikur; how he was absolutely in his hand; and how absolutely impossible therefore it was for reforms to take place. Was there no difficulty in the way of accomplishing that which the Viceroy had considered would take a period of two years or a year and a half to effect, but he was to be thwarted that way. Colonel Phayre also seems to have been labouring under the idea that he should be poisoned. Where he got it from, Heaven knows; but one can very well understand that persons like Bhow Poonikur, who talked about bazaar gossip, impregnated a mind like Colonel Phayre's with notions of that character. Then we have a circumstance that also occurred which I shall have to speak of afterwards. Somewhere about September or October Colonel Phayre had a boil on his forehead. This boil will not be altogether unimportant in the case. I think a good deal turns upon it. There is a curious episode connected with it, and if anything can be humorous in this case, this forms one. There is no doubt whatever he had a boil. He had the attendance of a distinguished medical practitioner to take care of this boil. Where he got the idea into his head, and how he got it there, nobody knows, unless he had read over Damodhur Punt's evidence and recalled matters to his mind, and then came to a sudden conclusion, because he does not appears at that time to have made any observations on the subject. He complains at that time of having been sick, not liking his pummeloe juice. Dr. Seward was not asked upon the subject. I know collodion was mentioned, but Dr. Seward would hardly apply collodion to an open boil. If he did apply collodion it fully accounts for the feelings he described; but it is clear that he intended to convey that something was done to the blister put on which he describes. My learned friend corrects me, and therefore the observation does not apply. I did not remember that he used anything else, and I did not remember what was said by one other witness, what was to be put on the place. My friend mentioned this, and it is to support the testimony of Rowjee that he put certain powders into his pummelo juice. A peculiar matter is that Colonel Phayre drank his bad pummelo juice without complaining. It occurs to me that the best tempered man in the world on drinking bad pummelo juice would say, "What on earth is the matter with this;" but Colonel Phayre seems to have behaved in a most Christian spirit and said nothing about it. He simply did not drink, and this occurs on three successive days, with no complaint, no alteration, no enquiry. I think you will agree with me that that conduct is of a kind which can hardly be accounted for. He says so, however, and I accept his statement as such; but I do not accept it as being what actually took place, and I cannot help thinking he has been poring over the evidence of the other witnesses; and that he is inclined to attach to that an importance which has only been created by the assertions of other people. Of course I may be wrong on that point, but it appears to me to be extremely probable. Let us look at it whilst we are considering it with Rowjee's. If his account is true he really took out all the arsenic from the parcel he had received and deposited it in another parcel and practically only used the diamond dust. Practically he only used that which, supposing it to be admitted, is a perfectly innocent matter, and can cause no pain nor annoyance. It certainly does look as if fancy had worked upon his mind, and that he had recollected feelings which he never experienced, by reading depositions that an attempt had been made to poison him. Then, my Lord, we go on to the subsequent period, the 6th, 7th, and 9th of November. On the 6th and 7th the same incidents occurred. The same symptoms that he had experienced in September and October, and again experienced on the 6th and 7th November, the very same that were afterwards experienced on the 9th. To say the least of it this is extremely peculiar, because—according to the evidence of Rowjee, he had not put the poison in upon the 6th and 7th, and therefore Colonel Phayre found he had these symptoms upon those days, after he had supposed that poison had been administered upon these particular days. The pummelo juice was bad again; he tasted it on successive days, and was not able to drink it all, and again he was perfectly submissive, made no complaint, nor till the 9th of November did it strike his attention that poison had been administered. Now, my Lord, these I confess are matters that I am unable to fathom. At one time it occurred to my mind—I do not say it occurs to it now—but it did occur to it, and to the minds of other persons, and I wish to offer it as an argument to you, and that is that there was no substantial, real intention to poison the Colonel. I shall have to address many observations in which that point will be an important one to consider. It occurred to me as very strange that persons having such complete access to poison, having also completed access to Colonel Phayre, with a perfect knowledge of his habits, with an opportunity with them, it occurred to me as extremely strange that for a long time no attempt should be successful, and in reality no serious inconvenience arising from what was said to be repeated attempts to poison him. That was a matter which it was impossible to lose sight of in a case like this presenting such extraordinary circumstances and so many impossibilities. But when we come to the ultimate act, the description of it greatly puzzled me, and puzzles me to this moment. Colonel Phayre was very resolute in saying that the sediment at the bottom of the glass was a dark sediment. The other witnesses all spoke of light-grey powders, and if that which was analysed, and if the analytical tests have been correct, and if we are rightly informed upon the subject, beyond all question the powder analysed did not in any way answer the description given of it by Colonel Phayre. The tumbler had been put down, and after it had been put down, and after it had remained for, if I recollect the evidence rightly, about half an hour, he threw it away and then was attracted by the appearance of the contents at the bottom. Now you will remember what Dr. Seward said upon that subject. I received his evidence upon a number of points, and I assured him that it was not my intention to offer him the least offence, but directly I spoke about the colour of the powder in the glass, he got out of temper and proposed to keep me here till doomsday. It seemed to me perfectly clear that it was a puzzle to him which he could not make out, for the powder which Colonel Phayre saw was dark while that seen by Dr Seward was light. I do not mean to say that eyesight of people does not deceive them occasionally, so that that which is light may appear to them dark and *vice versa*. I have heard that such cases sometimes occur in regard to colours, but, to say the least, it is unusual, and the fact remains that between Dr. Seward and Col. Phayre there is a direct and altogether irreconcilable difference. Now, the powder—at all events, if it was the powder that really remained, for I confess that I cannot understand the difference of the colour I have alluded to—was sent away for analysis. I shall be obliged, when comparing what Rowjee and Nursoo and one or two of the other witnesses said, to refer again to the circumstances that took place on the morning of the 9th. In the meantime, however, I pass away from that. In analysing the powder, Dr. Seward applied a test which is not always carried out with success. And from Dr. Grey's evidence I do not understand that the arsenic was really reproduced by either himself or Dr Seward, although they both refer to the discovery of a metallic ring. There is no doubt that this metallic ring indicates arsenic, but it is not an absolute proof; and I know that in cases of arsenic poisoning tried at home, the scientific men employed have generally brought out the arsenic itself in its pristine form and not relied merely upon the appearance of this metallic ring. With regard to the diamond dust it is entirely idle to say that any whatever has been found. It is pure nonsense to say so. There are some sparkling elements and something that scratches glass, but to say that it is diamond dust is utterly beyond any possibility of proof. It cannot be proved. It is the purest guess-work imaginable to speak of the presence of diamond dust, and to accept scientific disclosures upon such a subject is the merest trash which I do not think will have any weight upon the minds of the members of this Commission. Of arsenic there is a certain amount of proof, supposing that the powder sent for analysis was the identical powder which was in Colonel Phayre's glass at the time he showed it to Dr. Seward, and I am well aware of a positive declaration by Colonel Phayre that the glass could not have been touched or the contents added to before he gave it to Dr. Seward. But I do not think that positive declaration will go far, because there were a number of people about who had the fullest opportunity of touching the glass if they wished to do so; and his positive declaration may have been due to his preconceived idea that he had been poisoned. In making these observations I am not propounding a theory which I undertake to prove or substantiate; I am only remarking upon the peculiarity of the evidence in this part of this case and the reflections it gives rise to, and the difficulties presented by those matters to which I have taken the liberty of calling your attention.

It was now past two o'clock and the learned Serjeant suggested that the day being Saturday, the Court should rise for the day. He was, however, willing to go on if the Commission desired it.

The President—If you feel that physically you require a rest this afternoon, we shall certainly not press you to go on.

Serjeant Ballantine—I must put it entirely upon myself, as I think I should like a rest this afternoon.

The President—For the reason you have stated we shall not go on, although I regret that there should be any loss of time.

Serjeant Ballantine thanked His Lordship the President, and said he had already gone through a considerable portion of the case, and probably by Monday he would be able to see whether he could not condense what observations he had yet to make.

The Court then rose.

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COMMISSION OF INQUIRY INTO CHARGES LAID AGAINST H. H. MULHARRAO, GAEKWAR OF BARODA.

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THE exhibits D 2, E 2, F 2, and G 2, put in during Mr. Souter's examination on March 12th, respectively, read as follow :—

D 2.

Ameena, wife of Sheikh Abdoola Kiral, age about 40, and ayah to Mrs. Boevey, states :—At the time of the meeting of the Baroda Commission, I was persuaded, much against my will, by Faizoo Rumzan, Residency Chobdar, to visit the Maharajah Gaekwar. I went to see him three times altogether. On the first occasion I was taken to the Maharaja by Faizoo, and that was when the Inquiry Commission was sitting. Salim sowar met us at the Haveli, and we all three proceeded before the Maharaja together. We went up three flights of stairs to where the Maharaja was sitting. He spoke to me personally, and begged me to intercede with my madam, Mrs. Phayre, in order that she might use her influence with the Resident in his (the Maharaja's) behalf. I made no promises. After being about half an hour with the Maharaja I left. Faizoo went to his house in the city, Salim remained at the Palace, and I came home by myself in a bullock shigram.

I visited the Maharaja twice again: the second time was after my return from Bombay and Nowsaree, where, on Mrs. Phayre's departure for England, I accepted service with her daughter, Mrs. Boevey, wife of the Assistant Resident. It must have been about a month after my return to Baroda that I visited the Maharaja on the second occasion. I was then persuaded by the Maharaja's Arab servant, Salim, to go to the Gaekwar, and was taken by the Residency Naik named Kurreem. The Maharaja and Salim talked to me about "jadoo" [sorcery], but I remarked that Europeans could not be affected or influenced by such means. My interview with the Gaekwar lasted about half an hour, and then returned home in the shigram with Kurreem. On this day I received no money, but two or three days after Kurreem Naik called at my house and gave me Rs. 100, stating that Yeshwuntrao Yeola had given Rs. 200, of which Rs. 100 was for him, which he had kept, and the other Rs. 100 for me.

The third time I visited the Maharaja was during the Ramzan. I was then pressed to go by Salim, who fixed the day and time, and I went in company with my servant boy named Choto. My husband, Abdoola, procured a shigram, and Salim met me at the Haveli and took me before the Raja. On this occasion the Maharaja spoke to me with reference to the birth of Luxmeebaee's child, and inquired whether the saheb and madam had been talking about him (the child), and if any objection was likely to be raised with regard to his legitimacy. The Maharaja asked me to do what I could in the matter; but I told him that I could not help him. I was with the Maharaja for about half an hour on this occasion, and returned to my home at the Residency with my servant boy about 10 o'clock at night. About two or three days after this visit Salim came to my house at the Residency and gave me Rs. 50. I am quite familiar with the Maharaja Gaekwar's appearance, as I have often seen him during his visit to the Resident; and on one occasion, when the Gaekwar's family came to visit Mrs. Phayre, the Maharaja was in the room when I happened to be called in and made my salaam. He was then sitting quite close, and I saw him distinctly, and it was the same person before whom I was taken and conversed with during each of my three visits to the Haveli.

The Kazi of Chandore, who was in the habit of frequenting the Residency, particularly when the Reverend Mr. Taylor used to be on a visit, informed me about a month before the attempt to poison Colonel Phayre that the Resident's butler, Pedro, and Rowjee, Havildar of Peons, were in great favour with the Maharaja, and that they had agreed to administer poison, but they did not say to whom.

Kurreem Naik also told me, about a month before the attempt to poison the Resident, that he had heard from a person in high position that Pedro butler, and Rowjee Havildar, had consented to administer poison.

Taken before
F. H. SOUTER.
Commissioner of Police, Bombay.
Baroda, 18th December 1874.

Ameena, wife of Sheik Abdoola and ayah to Mrs Boevey, is re-called at her own request, and further states :—When I gave my statement on the 18th, I was suffering from fever and was not feeling well, and omitted to mention certain facts which I have now remembered and wish to have recorded along with my first deposition.

On the occasion of my being taken before the Maharaja the third time during the Ramzan, the Maharaj asked me, after other questions, whether it would not be possible to administer something by which the Resident could be brought round to his (the Maharaja's) will. The Gaekwar spoke in cautious and hidden language, but I understood him to be throwing out a feeler to ascertain whether I would consent to administer poison to my master, Colonel Phayre. I indignantly refused, and objected, and told the Maharaja that if he attempted anything of the sort he would get into serious trouble and be ruined. I exclaimed, "it would * be better that lakhs of people should die than that the supporter of lakhs should come by his death." Salim, who was standing close to the Maharaja at this time, endeavoured to persuade me by kind words and by saying that if I would only do as the Maharaja wished, I would have provision made for me for the rest of my life, and that my husband should also be taken into service under the Raja.

* Lakh murna, lakin lakh ka palnawala nai murna.—This is a very common Oriental idiomatic phrase.

Taken before
F. H. SOUTER,
Commissioner of Police, Bombay.
Baroda, 21st December 1874.

E2.

Rowjee bin Rama, Mahratta, age 24, havildar of peons on the establishment of the Residency at Baroda, states :—About two months before the Commission sat at Baroda, Salim, Arab Sowar, who was in the constant habit of visiting the Residency with His Highness the Gaekwar, spoke to me and said that the Maharaja wished to see me. I agreed, and it was decided that I should go on the following Sunday and meet him, Salim, at the house of Yeshwuntrao about 8 o'clock at night. I was taken before the Maharaja by Salim and Yeshwuntrao by a private entrance on the side of the Nuzzer Baug. On being introduced to the Maharaja, he asked me if I would agree to keep him informed of all that went on at the Residency. I consented, and he promised to reward me handsomely and to confer other favours upon me. The Maharaja asked me if I could get the jemedar of peons, Nursoo, to help in this matter also and to visit him. I promised that I would arrange this, as the jemedar was a great friend of mine. I then left the Maharaja, and the following day I spoke to the jemedar and told him of the Maharaja's wishes. The jemedar said that his family was ill, and that he had his duties to attend to, and could not go to the Maharaja at that time. I visited the Maharaja several times again previous to the sitting of the Commission, and on each occasion I went first to Yeshwuntrao's house, and was invariably accompanied by him and by Salim when taken before the Gaekwar. I visited the Maharaja three times while the Commission was sitting, and furnished him with all the information I was able to gather as to the action of the Commission, and of all that was going on at the Residency.

At one of these latter visits I informed the Maharaja that I was about to be married, and that I was without the necessary means. He ordered Yeshwuntrao to remind him of this, and on the following Monday, when the Maharaja came on his usual visit to the Residency Yeshwuntrao, who accompanied him, informed me that he had got Rs. 500 for me, and told me to come for it. I went soon after in company with one Jugga (a man employed at the Residency to pull the punka) to Yeshwuntrao's house, where Rs. 500 were paid to me by a carkoon in Yeshwuntrao's presence and before Jugga. Of this money I lent Rs. 100 to Jugga, and made up a silver anklet of the value of about Rs. 100, and the rest was expended on my marriage. One Dajeebhai Kurya got the anklet made up for me.

After my marriage, and a few days after the Commission had left Baroda, Salim Sowar met me and said that he had got the jemadar all right and willing, and wished to know when I could come in company with him to see the Maharaja. I settled with him to go two days later, which was on a Sunday; the jemadar and I met that night at Yeshwuntrao's house about 8 o'clock. Jugga accompanied me, as I did not like to go by the rear road to the city at night by myself.

From Yeshwuntrao's house we all went to the Haveli, where Jugga remained below, and Salim, Yeshwuntrao, the jemadar, and I went up and interviewed the Maharaja. This was the jemadar's first visit, and he consented, at the Maharaja's request, to keep him informed of all that transpired at the Residency, for which promise of favor a liberal reward was held out to the jemadar by the Maharaja. It was then arranged that Salim should from time to time receive and convey information from the jemadar to the Maharaja. I accompanied the jemadar two or three times on his visits to the Maharaja previous to the Resident's leaving for Nowsaree. At Nowsaree nothing particular transpired. Salim and Yeshwuntrao accompanied the Maharaja, but lived in the compound of the house occupied by the Resident. There they struck up a friendship with the Resident's butler, Pedro, and about two or three days after the return of Col. Phayre to Baroda the butler, Pedro, asked me if I would accompany him to the Maharaja. I agreed, and on an appointed day Salim came to the Residency, and we three went off together about 10 o'clock at night in a bullock shigram which had been placed on the road by Salim and belonging to the Durbar. We went direct to the Haveli, where we met Yeshwuntrao, who took us up to the Maharaja. The Gaekwar spoke to Pedro and asked him if he understood English. He said he did a little, so the Maharaja requested him to communicate to him any conversation that might take place at the table relating to him, to which Pedro consented. I accompanied the butler Pedro, on two other occasions to the Maharaja previous to his going to Goa after the rains. We went to the Haveli in the same manner as before and with Salim and Yeshwuntrao; nothing particular transpired. On the butler's return from Goa I accompanied him again to see the Maharaja. Salim came as before and brought a shigram which we met on the road. Yeshwuntrao met us as usual at the Haveli, and we were taken before the Maharaja, who first inquired of Pedro how he was and when he returned, and then said he had something of importance for him to do, and asked if he would do it. Pedro said if it was a matter within his province that he would do it. Yeshwuntrao then handed a small paper packet to the Maharaja who passed it on to Pedro, and told him to administer it in his master's food. Pedro remarked that if any thing should happen suddenly he would get into trouble. The Maharaja said that he was not to fear, as nothing would take place for two or three months, when his master would either die or get mad. Pedro consented to do what was wanted, and he returned to the Residency about midnight.

In addition to the visits I paid the Maharaja at night in company with Pedro, I also went to see him several times in company with the jemadar after our return from Nowsaree. The jemadar was not aware of my having gone to the Maharaja with Pedro. About fifteen or twenty-one days after our return from Nowsaree the jemadar gave me at his house in the city Rs. 300, which he said was half the sum he had received from the Durbar to be divided between us. About three weeks or a month before the attempt to poison the Resident was discovered, the jemadar and I were taken before the Maharaja by appointment at night. Yeshwuntrao and Salim introduced us, the Maharaja sat in his private room as before, and after a short conversation he remarked that the Resident was very hard upon him and doing great "zoolum," and asked us if we would consent to administer something which he would give. Salim and Yeshwuntrao immediately began to persuade us by saying that if we would only carry out the Maharaja's wishes we should not be required to serve any longer, as he would make a handsome life provision for us and our families; that we should have "assamies" bestowed upon us, and should in addition receive a lakh of rupees each as soon as the work was done, meaning as soon as the Resident's death took place. We consented to do the job, and the Maharaja then said that the article to be administered would be given to us by Yeshwuntrao and Salim. A few days after this the jemadar gave me two powders, and told me that equal parts of each should be administered for two or three days, and in such quantity as to consume the whole in that time. This had also been carefully explained to me by Yeshwuntrao and Salim in the presence of the Maharaja. I did not commence to administer the powders for two or three days, as no favourable opportunity presented itself for so doing. It was decided at our consultation with the Maharaja that the poison should be administered in "sherbut," which Colonel Phayre was in the habit of taking every morning on return from his walk. Accordingly I put the powders into the "sherbet" two or three times whenever I found no person in the room, or about to see me.

As a few days elapsed without anything happening, the Maharaja evidently became impatient, and sent for me and the jemadar again. We went in the usual manner with Yeshwuntrao and Salim. The Maharaja remonstrated with us for not having done the work we promised. I assured him that I had put the powder into the sherbet two or three times, and I expressed my doubts as to the poison being efficacious. Thereupon the Maharaja said he would give another powder, which Salim produced and handed to the jemadar. The Maharaja said that this would not take immediate effect, but that it would work slowly and surely. We then left, and the following morning the jemadar gave me the packet of poison at the Residency while I was sitting on the form close to the screen and near to where Colonel Phayre used to sleep. A day or two after this I administered the poison in the glass of sherbet which had just been made and placed on the wash-hand table close to the Resident's writing-desk in his private office room. Colonel Phayre was out walking at the time, and returned about twenty minutes after. I informed the jemadar when he came about half-past 7 o'clock of what I had done. When I visited the Maharaja the punkahwalla, Jugga, accompanied me from the Camp Bazaar sometimes, but a man named Kabhai more frequently came with me as far as the Haveli. They never appeared before the Maharaja, and I only took them as company, as I was afraid to go so far at night by myself.

The packet of poison which the jemedar first gave me I made into small doses, as directed, and kept the powder in the secret pocket of my cross-belt. The powder taken from the secret pocket of my cross-belt this morning (25th December 1874) is one of the powders made up from the packet given to me by the jemadar, and I used always to keep the powders in the same place. While at Nowsaree I spoke to Yeshuntrao and Salim, at the jemadar's request, to get some money for him, and they interceded with the Maharaja, who ordered Rs. 250 to be given to the jemadar through Salim, who, at the jemadar's request, paid the money to one of his brothers at Baroda.

Whenever there was any information to send to the Maharaja from the Residency, and I was unable to go to the Haveli myself, I used to write or get Jugga to write at my dictation, and the note used to be taken by the jemadar when he went home at night to the city, and he used to send it on to the Maharaja through Salim. The gold and silver ornaments which I have produced, and valued at about Rs. 420, have been made up from the money which I have from time to time received from the Maharaja.

Taken on the 24th and 25th December 1874, before
F. H. SOUTER,
Commissioner of Police, Bombay.
Baroda, 25th December, 1874.

Rowjee bin Rama is recalled and further states:—

On the occasion when the jemadar and I were taken before the Maharaja in company with Yeshwuntrao and Salim, and it was decided and arranged that poison should be administered to Colonel Phayre, it was carefully explained to me and I was instructed each time to mix the powder in water first, otherwise I was told that the poison would float on the surface of the sherbet. Accordingly I used to shake the powder up with water in a small phial and pour it into the glass of sherbet. The jemadar

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knew this, and was aware that I kept the phial for this purpose concealed under a large empty box which stood close to the form on which the peons sat while on duty.

Taken this 26th day of December 1874, before
F. H. SOUTER.
Commissioner of Police, Bombay.

The Residency, Baroda.

Rowjee Havildar was taken into custody by the police on the 22nd December; and on the same evening, on promise of conditional pardon that he should tell the whole truth, he confessed to having been the person who administered the poison to Colonel Phayre. The following morning he was brought before Colonel Sir Lewis Pelly, who repeated and confirmed the promise of pardon conditionally offered, upon which Rowjee then made the detailed statement taken down on the 24th, 25th and 26th idem.

F. H. SOUTER,
Commissioner of Police, Bombay.

The Residency, Baroda, 26th December 1874.

F 2.

Nursoo bin Rajanna, Kamatee, age 50, Jemedar of Peons on the establishment of the Resident of Baroda, states:—About the time of the sitting of the Commission at Baroda, Rowjee Havildar told me one day that he had been speaking favourably of me to the Maharaja, who had expressed a wish to see me. I replied that there was sickness in my house and that I had my duties to attend to, and therefore could not arrange to go to the Maharaja at that time.

After the Commission left Baroda, Yeshwuntrao, Salim, and Rowjee all urged me to go and see the Maharaja; and at last consented, and on a fixed day I went to the house of Yeshwuntrao, where Rowjee and Salim also met me; and we went together by way of the Nuzzer Baug and a private entrance to an upstair private room, into which Yeshwuntrao brought the Maharaja and introduced me. The Maharaja first remarked that I was a scamp and a bad man, and had never been favorable to or assisted him; but the three men Yeshwuntrao, Salim, and Rowjee assured the Maharaja that they had all spoken to me, and that I was now fully prepared to carry out his orders and act up to his wishes. The Maharaja then requested me to keep him regularly informed through Salim of all that transpired at the Residency, to which I consented. On this occasion a man named Kabhai accompanied Rowjee from the camp to the Palace, but he did not appear before the Maharaja. About twenty or twenty-five days later I again visited the Maharaja in company with the same people and in the same manner. Nothing particular transpired at this visit beyond furnishing the Maharaja with all the information we had regarding matters at the Residency.

In the month of April I accompanied the Resident to Nowsaree; the Maharajah also came there and lived in his Haveli while Colonel Phayre was located in a bungalow close to the Railway station, and about a mile from the Maharajah's Haveli. Salim and Yeshwantrao lived in the Resident's compound.

I believe Rowjee used to visit the Maharaja at Nowsaree, and through Salim he obtained for me a present of Rs. 250, which at my request was paid to one of my brothers at Baroda.

About a month or more after the Resident's and the Maharaja's return from Nowsaree, I visited the Gaekwar again in company with Rowjee, Salim, and Yeshwuntrao. We met as usual at the house of the latter, who took us before the Maharaja. We first gave him all the information of what had been going on at the Residency, and then Salim and Yeshwuntrao remarked to the Maharaja that we (Rowjee and I) had not received anything on account of his recent marriage with Luxmeebai. He said very well, that he would see about it. We then left, and a few days after Salim brought me Rs. 800, of which I gave him Rs. 100, and believe I paid Rs. 400 to Rowjee, from which sum he was to pay Jugga Rs. 100.

About two months later I again visited the Maharaja in company with Rowjee. We met as before at the house of Yeshwantrao, and he and Salim took us before the Maharaja. We first informed the Maharaja of all that had been going on at the Residency, after which he remarked that Colonel Phayre was very hard and doing great "zoolum" to him, and asked us if we could and would consent to put something in his food. I replied that in my position I had no opportunity to do this, upon which Yeshwuntrao and Salim began to persuade us by saying, that if we only consented to do this job the Maharaja would reward us in such a manner that we should not be required to serve any longer, and that our families should also be handsomely provided for, and that the remainder of our lives would be spent in ease and comfort. Rowjee then said that Colonel Phayre was in the habit of drinking sherbet early in the morning on his return from walking and that he would administer the dose in that. The Maharaja and Yeshwuntrao then said that they would send a powder by Salim to me at my house in the city, which I was to give to Rowjee at the Residency. Yeshwuntrao carefully explained to Rowjee at the time the manner in which the powder was to be administered. We left and the following day Salim brought me a packet which I stuck safely within the upper folds of my turban, and the next morning I gave the packet to Rowjee while he was sitting on the form close to the screen near where Colonel Phayre used to sleep. I did not open the packet, and therefore was unaware of the number of powders it contained.

A few days after this when Yeshwuntrao and Salim came to the Residency with the Maharaja, they began to enquire of Rowjee how it was that nothing had happened, and asked whether he had administered the powders or not. Rowjee then spoke to me and said he did not know how to account for there being no result, as he had certainly put the poison in the "sherbet." The Maharaja being dissatisfied about this sent for us again. About fifteen days after the great Dusserah sawaree we went as usual to Yeshwuntrao's house. It was about 8 o'clock at night when I and Rowjee met there, and we accompanied Yeshwuntrao and Salim as before, and they brought the Maharaja and introduced us in the same room. He immediately upbraided us for not having carried out his wishes as promised, upon which Rowjee declared that he had put the powders in the "sherbet," but stated that he did not think they could possibly have possessed the required property. The Maharaja then said "Very well," that he would give something else which would be brought to me by Salim. At this time, and when we were about to leave, Yeshwuntrao gave something (I am not sure if it was a small bottle, or what it was) to Salim, who passed it on to Rowjee. The former promises of high reward and favour were repeated, and we came away. The following morning Salim gave me a packet, which I handed to Rowjee the same day on coming to the Residency. He was sitting as before on the form near the screen. A few days after this the conversation took place of the attempt to poison Colonel Phayre. Rowjee told me that, as instructed, he on each occasion mixed the powder with water, which he shook up in a little bottle before pouring it into the sherbet. He used to keep the bottle for this purpose hid under a large empty wooden box close to the form above referred to. Rowjee used often to give me notes, written sometimes by himself and sometimes by Jugga, at his dictation, to send on to the Maharaja. These notes contained all the information of what was going on at the Residency, and Salim or his man used to call at my house for them. I live in the city and have always been in the habit of returning to my house at night, and on Sundays I have not been required to come to the Residency.

On the several occasions when we visited the Maharaja, Jugga came once with Rowjee from camp, and on all other occasions he was accompanied by Khabai.

Taken this 26th day of December 1874, before
F. H. SOUTER.

The Residency, Baroda.

Nursoo Jemadar was taken into custody on the 23rd December consequent on the confession made by Rowjee, which so seriously implicated him as an accessory in the attempt to poison Colonel Phayre. He was at once given in charge of the military guard at the Residency. The following morning, at his own expressed wish, he was brought to the Commissioner of Police, before whom he made an unconditional confession. Previous however to hearing his statement, it was distinctly explained that no promise of pardon could be held out to him. The jemadar was then brought before Sir Lewis Pelly, who told him, before listening to his confession, that he would not only hold out hope of pardon, but explained to him distinctly and positively that he *would not* be pardoned. Upon this the jemadar took off his turban and laid it at the feet of Sir Lewis Pelly, saying that he might be hanged or have his throat cut, but that he wished to unburden his mind and tell the truth, and that he threw himself upon his (Sir Lewis Pelly's) mercy.

After hearing the jemadar's detailed statement, made without reserve before Sir Lewis Pelly and the Commissioner of Police, he was again given in charge of the military guard till the 26th, on which day he was recalled and his confession taken down at length by the Commissioner of Police.

After the prisoner's statement had been recorded, he asked to be permitted to take his dinner in the back garden of the Residency, situated within 100 yards from the bungalow. He partook of his food close to a well, near to which he had been taken for the convenience of water, and he had scarcely finished when he suddenly rushed away from the police guard and threw himself into the well. A policeman immediately jumped in and rescued him. This was about 4 p.m., and he was at once taken before Sir Lewis Pelly, who questioned him as to the reason for what he had done, and inquired whether he had been in any way ill-used or ill-treated by anybody. This he positively denied, and declared that the reason for what he had done was, that as he had served Government for thirty-five years he was now, after what had taken place, ashamed to show his face; that his mind was confused and troubled, and therefore he had thrown himself into the well.

The following morning [27th December] Sir Lewis Pelly personally visited Nursoo Jemadar in the guard-room and made similar inquiries of him again with regard to his throwing himself into the well; but the same reply was given as on the previous evening, and this statement was made in the presence of one of the jemadar's brothers, who had come from the city to inquire after him.

F. H. SOUTER,
Commissioner of Police, Bombay.

Baroda, 29th December 1874.

G 2.

Damodhur Punt's examination resumed 3rd February 1875.

I held the position of Private Secretary to H. H. the Maharaja Mulharao, and had charge of all his private business, known as the Khangee Department.

About a week before the Maharaja was made prisoner, he brought me to the Residency and introduced me to Sir Lewis Pelly at the door as his Private Secretary.

It was the habit of the Maharaja to go for a drive three times during the day, and he always took me once or twice with him.

Whenever the Maharaja visited the Residency I used to accompany him as far as the Sevak's Dhurumsala, where I generally got out of the carriage and waited till the Maharaja's return, when he took me in again and drove me to my house on his way to the Palace. The Maharaja was usually driven by a coachman named Rutansing.

I do not know why it was that the Maharaja put in force measures to poison Colonel Phayre without first waiting to ascertain the result of his khareeta addressed to the Viceroy urging his removal.

I never knew that Mrs. Phayre's ayah had ever visited the Maharaja till I heard from him that she had also been taken up and made a prisoner of. It was characterestic of the Maharaja not to divulge to anybody the plots which he used to put in force, and to confine such secrets to those actually engaged.

Taken before
(Sd.) F. H. SOUTER, on special duty.
3rd February 1875.

Friday, 5th February 1875.

Damodhur Punt's examination resumed 5th February 1875.

I have stated in my deposition of the 29th January, that I procured diamond chips on two occasions by order of the Maharaja. I do not remember the exact dates on which they were obtained, but as well as I recollect, about a week intervened between the two occasions when I procured them.

The sums of money which have been entered in the accounts of my department, as having been paid to Yeshwuntrao and Salam under the head of fruit, fireworks, &c., represent the amounts which were paid by me in obedience to a standing order of the Maharaja, for the purpose of bribing Rowjee, Nursoo Jemedar, and other servants at the Residency.

It was no part of the duties of Yeshwuntrao or Salam to purchase fruit or fireworks for the Maharaja.

The Maharaja and Salam both told me that the details of the plot to poison Colonel Phayre had been personally planned by the Maharaja himself, and the execution of them arranged in his presence by Yeshwuntrao Rowjee, Salam and others.

The written information which the Maharaja had arranged to obtain, through Rowjee, of all that transpired at the Residency, used to be delivered to the Maharaja by Salam, and either Wussuntram Bhow or I used to read them to him, and the papers were immediately destroyed.

The two sums of Rs. 25.000 and 20,000, paid to the Calcutta Baboo, have been entered in my books as having been paid to Bhikoo (a kept woman of the Maharaja's and to the relations of Luxmibaee.

I am aware that while Balwuntrao Rahoorkur held the office of Deputy Dewan, he was the Maharaja's principal counsellor in all his wicked designs, and it was he who took the principal part in bringing about the poisoning and murder, by other means, of Govind Naik, Rowjee Master, and Bhow Scindia.

I have stated above that it formed no part of Yeshwantrao's or Salim's duties to purchase fruit, fireworks, &c, but I now remember that on one occasion Yeshwantrao did bring some fireworks, either from Bombay or Ahmedabad; and this was about the time of the "Dewalee" 1874.

The orders and vouchers in Mahrathee, lettered from A to F, and each bearing my endorsement, are the original documents and authority under which the sums shown in each were paid to Yeshwantrao under the Maharaja's instructions for the purpose of bribing the servants at the Residency and others. Those papers, lettered from G to Q, show sums of money similarly paid to Salim for the same purpose.

I have, to the best of my knowledge and belief, stated all I know, but shall willingly furnish hereafter any further information that I may remember.

Taken before
(Sd.) F. H. SOUTER, on special duty.
Baroda, 5th February 1875.

(The accounts annexed to the last statement will be found at pages 115 to 130, both inclusive, in the notes of the proceedings before the Commission of the 8th and 9th instant.)

Baroda, 8th February, 1875.

The deposition of Damodhur Trimbuck, Brahmin, resumed.

The two memoranda in Marathi now shown to me (lettered R and S) were addressed to me by Nanajee Vithul, at my request, with the object of concealing the purchase of the diamond chips obtained from Hemchund Futtychund. The two documents purport jointly to acknowledge the receipt of about rupees 3,500 from the "Saving Fund," and the Marathi order bearing my endorsement now shown me [lettered T] is my authority to debit the above sum under the heading of expenses incurred in feeding Swamee Narayan's Brahmins. In reality this money was paid to Hemchund Futtychund, on account of diamond chips purchased from him for the purpose of poisoning Colonel Phayre, and represents the sum of Rs. 3,500, referred to my in deposition of the 29th January. On that day I stated the amount to be Rs. 3,500, *or so*, as I was giving my deposition from memory. The documents above referred to [lettered R, S, and T] have now been found amongst my records, which show that the actual amount was Rs. 3,632-13-3 of Baroda currency.

Taken before.
(Sd.) F. H. SOUTER, on special duty.